

DHMH POLICY 01.03.01

Effective Date: August 17, 2001

POLICY ON THE DHMH CORPORATE COMPLIANCE PROGRAM

I. EXECUTIVE SUMMARY

The Department of Health and Mental Hygiene (DHMH, the Department) is committed to being proactive in its efforts to follow the guidelines of the U.S. Department of Health and Human Services-Office of the Inspector General (DHHS-OIG) for developing a departmental compliance program designed to prevent and detect violations of the law and to establish standards that promote full compliance with the applicable federal and state laws. This policy defines the roles and purpose of the DHMH Corporate Compliance Program (CCP).

The Corporate Compliance Program consists of: 1.) The Compliance Officer (CO), who reports to the DHMH Inspector General on the progress of the program and its efforts; and 2.) The Corporate Compliance Committee, which assist and advises the Compliance Officer on the standards and Code of Conduct. The Division of Corporate Compliance of the DHMH Office of the Inspector General is responsible for administering this program. The CCP exemplifies the Department's commitment to implementation of the Governor's 1994 [Executive Order](#) on Internal Audits that was in response to the efforts of the DHHS-OIG to prevent and detect fraud, waste and abuse.

II. BACKGROUND

The purpose of a voluntary Corporate Compliance Program is to promote the prevention of fraud, abuse and waste in rendering health care services and still provide quality care to patients. The DHHS-OIG has issued several guidelines to encourage providers to develop voluntary Corporate Compliance Programs. These [guidelines](#) detail recommendations for Medicare, Medicaid and other health care program providers to develop effective internal controls that promote adherence to applicable federal and state laws and program requirements.

In an effort to ensure compliance with this policy, the Department is supplementing initiatives established by the Governor's 1994 Executive Order on Internal Audits by developing a Corporate Compliance Program and has established the DHMH Division of Corporate Compliance to oversee and implement this program. The Chief of the Division will serve as the Compliance Officer, and carry out the functions of the position, i.e. providing education and training programs for employees, responding to inquiries from any employee regarding appropriate billing,

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documentation, coding and business practices and investigating any allegations of possible impropriety.

III. POLICY STATEMENTS

A. DEFINITIONS

1. **Compliance Officer** - the individual designated to serve as the focal point for the Department's compliance activities while overseeing and monitoring the implementation of the Corporate Compliance Program.
2. **Corporate Compliance Program**- for the purposes of this program, a mechanism put in place by the Department of Health and Mental Hygiene to achieve the goals of reducing fraud and abuse; improving operational quality; and improving the quality and reducing the costs of health care.
3. **Corporate Compliance Committee** – a committee established to advise the Compliance Officer and assist in the implementation of the Corporate Compliance Program.
4. **Cumulative Sanction Report** – a list, published by the DHHS-Office of Inspector General, of individuals excluded from providing services to Medicaid or Medicare recipients.
5. **State and Federal Government Authorities** – officials including, but not limited to, representatives from the State Medicaid Agency, Medicaid Fraud Control Unit, Medicare Fiscal Intermediary, Department of Health and Human Services-Office of Inspector General, Health Care Financing Administration, Department of Justice, and U.S. Attorney Office.
6. **Sanctioned Individuals** – Health Care providers and their officers, employees and agents who are penalized through disciplinary actions specified by the Office of Inspector General.

B. MISSION STATEMENT

1. The mission of the Department of Health and Mental Hygiene is to protect and promote the health of all Maryland citizens by:
 - a. providing health and support services;
 - b. improving the quality of health care for all;
 - c. providing leadership in the development and enactment of responsible and progressive health care policy; and
 - d. serving as the advocate for public health initiatives and programs to improve the quality of life for all Marylanders.

2. While carrying out the Department's mission, all employees are expected to conduct the Department's business in a consistent and professional manner, adhering to the following principles:

- Perform all activities in compliance with pertinent laws and regulations, including those applying to fraud and abuse, false claims, self-referral prohibitions, anti-trust, employment discrimination, environmental protection, lobbying and political activity, and the Maryland Public Ethics Law.
- Participate in and promote high standards of business ethics and integrity. DHMH employees must not engage in any activity intended to defraud anyone of money, property or services.
- Perform all duties accurately and honestly.
- Maintain appropriate levels of confidentiality as it relates to the public and other DHMH employees by protecting proprietary information and referring inquiries to designated officials.
- Conduct business transactions with suppliers, vendors, contractors and other third parties free from offers or solicitations of gifts and favors, or other improper inducements.
- Avoid conflicts of interest, in appearance or fact, in the conduct of all activities. In the event that there are conflicts, DHMH employees must take prompt, appropriate action to make full disclosure to the appropriate authorities.
- Preserve and protect the Department's assets by making prudent and effective use of resources, property, and accurate financial reporting.

C. DUTIES AND RESPONSIBILITIES OF THE COMPLIANCE OFFICER

The duties and responsibilities of the Compliance Officer shall include, but are not be limited to, the following:

1. Report to the Inspector General on issues of compliance with the Code of Conduct (Addendum 1) procedures.
2. Ensure that all affected personnel understand proper billing and payment procedures through issuance of the Code of Conduct, training, and distribution of internal and external updates, guidelines, and other relevant resources.
3. Monitor compliance with federal and other billing requirements when the Department is the provider of services.
4. Provide advice and guidance to program and institution directors and local health officers on issues relating to compliance.
5. Develop and monitor a system for reporting suspected incidences of fraud or abuse in Departmental procurement and billing.

D. ROLE OF THE CORPORATE COMPLIANCE COMMITTEE

Cross-reference: [Executive Office-Inspector General](#)

1. The Compliance Officer will appoint a Corporate Compliance Committee to advise the Compliance Officer and assist in the implementation of the Compliance Program.
 - a. The Committee shall meet at least quarterly.
 - b. The Committee will be comprised of representatives of the following programs:
 - Health Care Finance (Medicaid Programs)
 - Mental Hygiene Administration (MHA)
 - Developmental Disabilities Administration (DDA)
 - Community Health Administration (CHA)
 - Family Health Administration (FHA)
 - Personnel Services Administration (PSA)
 - Laboratories Administration
 - BMO-Division of Program Cost & Analysis (DPCA)
 - FSA-Division of General Accounting
 - FSA-Division of Reimbursements
 - OIG-Division of Internal Audits (DIA)
2. The Compliance Officer and the Committee shall seek legal advice, as needed, from counsel provided by the Office of the Attorney General.
3. The Committee may form subcommittees to address specific issues.

E. THE DHMH CODE OF CONDUCT (THE CODE)

The Division of Corporate Compliance has developed a Code of Conduct (Appendix 1) to provide guidance and assist DHMH personnel to act with integrity and honesty in carrying out their daily operational activities. The Code incorporates standards and strategies to address areas identified as high priority for compliance oversight. The standards are intended to communicate issues that are comprehensive and easily understood; however, by their nature, these topics can be very complex. All DHMH personnel are encouraged to seek clarification from a supervisor, the Compliance Officer, or Corporate Compliance Committee members.

F. REPORTING BY THE COMPLIANCE OFFICER

In general, the Compliance Officer will make recommendations regarding compliance matters directly to appropriate DHMH managers. If the Compliance Officer is not satisfied with the action taken in response to the recommendations, he/she will report such concern to the Inspector General.

G. REPORTING OF VIOLATIONS

1. The Compliance Officer shall have an “open door” policy to:
 - a. accept reports of violations or suspected violations of the law or Policy.

- b. answer employees' questions concerning adherence to the law and to the policy.

2. Corporate Compliance Reporting Hotline

- a. DHMH shall establish and maintain a Corporate Compliance Reporting Hotline (the **Hotline**) to allow employees direct access to the Compliance Officer or Hotline attendants for reporting or questions.
- b. The **Hotline** telephone number, along with the Corporate Compliance Policy, will be distributed to all DHMH employees and shall be posted in conspicuous locations throughout all DHMH offices.
- c. Caller Identification (ID) Numbers
 - Callers who wish to remain anonymous will be provided with an ID number.
 - An ID number will identify one individual case.
 - ID numbers may be used to report additional information and to inquire about the status of an investigation.
 - All information reported to the **Hotline** by any DHMH employee, in accordance with the DHMH Compliance Hotline Policy, shall be kept confidential to the extent that confidentiality is possible, throughout any resulting investigation.
 - Despite the **Hotline's** efforts to maintain anonymity, callers are to be made aware that a caller's identity may eventually become known as a result of the investigation.
 - Under no circumstances shall an employee's reporting of any information or possible impropriety serve as a basis for any retaliatory actions to be taken against the employee or other person making the report to the **Hotline**.
 - Any DHMH employee who makes an intentionally false statement or otherwise misuses the hotline shall be subject to disciplinary action through the appropriate channels.

H. RESPONSE TO REPORTS OF VIOLATIONS

The Compliance Officer shall assure the prompt response to reports of alleged violations of wrongdoing of DHMH employees, whether such allegations are received through the **Hotline** or in any other manner.

1. Upon the discovery that a material violation of the law or of the Policy may have occurred, the Compliance Officer shall take immediate action to preserve potential evidence, to collect additional information on the violation if possible, to report the suspected violation to appropriate law enforcement and regulatory bodies, and if and when appropriate, to discipline the responsible DHMH employee(s).
2. If an investigation of an alleged violation is undertaken and the Compliance Officer believes the integrity of the investigation may be compromised by the on-duty presence of an employee under investigation, the

employee allegedly involved in the misconduct may be placed on administrative leave until the investigation is completed.

3. The Compliance Officer and the employee's supervisors shall take any steps necessary to prevent the destruction of documents or other evidence relevant to the investigation. Following the investigation, disciplinary action will be imposed in accordance with the applicable disciplinary policy.

4. After any discovered violation is addressed, the Compliance Officer or Committee shall initiate amendments to the Policy that they feel will prevent any similar violation(s) in the future.

I. CORPORATE COMPLIANCE EDUCATIONAL PROGRAM

1. The Compliance Officer is responsible for implementing an educational program that shall include training on ethical and legal standards, applicable laws and regulations, coding and billing practices, standards for documentation, and procedures to carry out the Corporate Compliance Policy. The program is intended to provide a good faith effort for the training of all employees with the appropriate level of information and instruction.

2. Each education and/or training program hereunder shall emphasize the importance of compliance with the law and that the DHMH Corporate Compliance Policy may be viewed as (or- in many situations is) a condition of employment with the Department.

3. *Program Content*

a. The Compliance Officer shall be responsible for determining the level of education needed by particular DHMH employees or classes of employees.

b. The program shall explain the applicability of pertinent laws, including applicable provisions of:

- **The False Claims Act**
- **The Social Security Act**
- **the patient anti-dumping statutes**
- **the laws pertaining to the provision of medically necessary items and services provided by DHMH units**
- **the criminal offenses concerning false statements relating to health care matters**
- **the criminal offense of health care fraud**
- **the Federal Anti-Referral/Anti-Kickback Laws, and**
- **the Health Insurance Portability and Accountability Act (HIPAA).**

c. As the Compliance Officer identifies additional legal issues, and matters, those areas will be included in the educational program.

- d. Each CCP educational program presented by DHMH shall allow for a question and answer period at the end of each session.
- e. A program evaluation questionnaire will be administered to solicit feedback on the training provided.

J. AUDITING AND MONITORING

The CCP will conduct periodic auditing and monitoring of activities of DHMH and its employees in order to identify and to promptly rectify any potential barriers to such compliance.

1. Regular, periodic audits, as prescribed by the Compliance Officer, shall be conducted with the assistance of the Attorney General's Office. Therefore, all investigations, and the results thereof, are confidential.
2. Regular audits shall evaluate adherence to the Corporate Compliance Policy and determine what, if any compliance issues exist.
3. Such audits shall be designed and implemented to ensure compliance with the Corporate Compliance Policy and all applicable federal and state laws. Compliance audits shall be conducted in accordance with comprehensive audit procedures established by the Compliance Officer and shall include, at a minimum:
 - Interviews with personnel involved in management, operations, and other related activities;
 - Annual review by the OIG on whether the Corporate Compliance Program's elements have been satisfied.
 - Random reviews of DHMH records with special attention given to procedures relating to documentation, coding, claim submissions, and reimbursement; and,
 - Reviews of written materials and documentation used by DHMH staff.
4. Formal audit reports shall be prepared and submitted to the Compliance Officer, to the Office of the Attorney General and to the Secretary of DHMH to ensure that management is aware of the results, and can take whatever steps are necessary to correct past problems and deter them for recurring.
5. The Audit Report and other analytical reports shall specifically identify areas where corrective actions are needed and should identify in which cases, if any, subsequent audits or studies would be advisable to ensure that the recommended corrective actions have been implemented and are successful.
6. The Compliance Officer shall monitor the issuance of fraud alerts (advisory opinions, reports, etc.) by the DHHS-OIG. The DHMH Compliance Officer and Attorney General's Office shall carefully consider any and all documents. The DHMH Compliance Policy shall be amended, as needed, in response to fraud alerts in order to immediately cease and correct any conduct applicable and criticized in such a fraud alert.

K. DHMH Will Not Employ or Retain Sanctioned Individuals

DHMH programs shall not knowingly employ any individual to provide items or services reimbursed by a federal health care program, or contract with any person or entity to provide such items or services, who has been convicted of a criminal offense related to health care, or who is listed by a Federal agency as debarred, excluded, or otherwise ineligible for participation in federally-funded health care programs.

In addition, until resolution of such criminal charges or proposed debarment or exclusion, any individual who is charged with criminal offenses related to health care or proposed for exclusion or debarment, shall be removed from direct responsibility for, or involvement in documentation, coding or billing practices. If resolution results in a felony conviction or exclusion of the individual, DHMH shall take appropriate disciplinary action.

L. DOCUMENTATION

1. The CCP shall document its efforts to comply with applicable statutes, regulations and federal health care program requirements.
2. All records and reports developed in response to the Corporate Compliance Policy are confidential and shall be maintained by the Compliance Officer in a secure location.
3. All Corporate Compliance Program records will be managed in accordance with the State's Records Management Program and the DHMH [Records Management Policy](#). Upon satisfaction of the records management criteria, the Compliance Officer, in consultation with the Office of the Attorney General, shall determine when and if, the destruction of such documentation is appropriate.

IV. REFERENCES

- Guidance for Voluntary Corporate Compliance Programs, US Department of Health & Human Services, Office of the Inspector General, <http://oig.hhs.gov/modcomp/index.htm>.
- Executive Order on Internal Audits, 01.01.1994.06
<https://constmail.gov.state.md.us/comar/01/01.01.1994.06.htm>
- Maryland Ethics Law, Annotated Code of Maryland, State Government Article, Title 15, §101, http://mlis.state.md.us/cgi-win/web_statutes.exe?gsg&15-101.
- Health Insurance Portability and Accountability Act (HIPAA); Public Law 104-191, <http://www.dhmh.state.md.us/HIPAA/>.
- False Claims Act, USC 273733, <http://www.access.gpo.gov/uscode>
- Social Security Act 42 USC 1171-1179
<http://www.access.gpo.gov/uscode/title42/title42.html>
- Civil Monetary Penalties Law, 42 USC 1320a7, <http://www.access.gpo.gov/uscode>

Cross-reference: [Executive Office-Inspector General](#)

- Health Care Fraud Act, 18 USC 1347
<http://www.access.gpo.gov/uscode/title42/title42.html>
- Federal Anti-Referral/Anti-Kickback Laws, <http://www.access.gpo.gov/uscode>
- Patient Anti-Dumping Statutes, <http://oig.hhs.gov/frdalrt/patientdump.htm>
- DHMH Records Management Policy, http://indhmh/top_poly/policies/p020307r.htm
- State Records Management Program, Annotated Code of Maryland, State Government, Title 10, §633.\ http://mlis.state.md.us/cgi-win/web_statutes.exe?gsg&10-633, and COMAR 14.18.02, <http://www.mdarchives.state.md.us/msa/intromsa/html/reg02.html>.

V. ADDENDUM

- ***DHMH Code of Conduct*** (<http://www.dhmh.state.md.us/policies/codeconduct.PDF>)

APPROVED: /s/ SIGNATURE ON FILE

August 17, 2001

Georges C. Benjamin, M.D., Secretary

Date